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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,035	04/11/2001	Henry Ross Perot	074639.0105	1760
5073	7590	03/20/2008	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			DASS, HARISH T	
			ART UNIT	PAPER NUMBER
			3692	
			NOTIFICATION DATE	DELIVERY MODE
			03/20/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/834,035	PEROT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Harish T. Dass	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2007.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16, 19-27, 30-39 and 41-68 is/are pending in the application.
- 4a) Of the above claim(s) 50-68 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16, 19-27, 30-39, 41-49 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

This office action is in response to applicant's communication of 12/10/2007.

### **Status of Claims:**

Claims 17-18, 28-29, 40 are canceled.

Claims 50-68 are withdrawn.

Claim 1-16, 19-27, 30-39, 41-49 are pending.

### **Status of Office action:** Final

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernandez-Holmann (hereinafter Fernandez – US 5,787,404) in view of Seto et al (hereinafter Seto – US 6,157,914) and Raphael (Raphael, Murray “supermarketing yesterday, today and tomorrow”, Direct Marketing v 57n3 PP: 8-20 July 1994 – dialog file 15 id 00891925).

Re. Claim 1-2 and 4 Fernandez discloses, an identifier (investment account which inherently has account number and customer associated record) that identifies a customer relative to an ownership position in a company (long term investment and accumulated funds) [col. 4 line lines 45-65],

a transactional component that facilitates an economic transaction [col. 1 lines 5-21; col. 2 lines 23-36 – see a 401(k) account, .. and the like (self directed pension plan); col. 5 line 47 to col. 6 line 3], and economic transaction and economic activity (point-of-sale transactions) [col. 1 lines 54-63].

Fernandez does not explicitly disclose wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity and economic activity with the customer for determining entitlement of ownership of stocks in the company and a transactional relay component, communicatively coupled to the transactional component, that facilitates a response to a server system regarding the transaction, the response including the identifier for the server system to locate additional information on the customer and to associate the activity with the customer.

wherein the client communicates to the server through an interconnected network, and wherein the economic transaction is a transaction taking place through an interconnected network.

However, client/server network architecture, communication protocols (http, tcp/ip, ftp) and Internet communication and their functions are well-known and are widely used for transferring data/files, shopping, online banking, running calculation at

universities by students, etc (For example, Internet browser (yahoo webpage) connects to web server (yahoo web server) using the server's identification name (www.yahoo.com) or IP address (for example 192.0.32.67) and in response customer's selection/entry the browser communicates with web server and the server in response provides content to the browser (ads, news, linked to other sites or web pages, linked to online shopping's, and etc. Other examples would be intranet, LAN, WAN, ATM, etc.)

Further, database and database management for banking, credit card companies and financial institutions are well known where customers account and activities are recorded and managed (updated, saved, retrieved, reported, monitored, etc.).

Raphael (Raphael, Murray "supermarketing yesterday, today and tomorrow", Direct Marketing v 57n3 PP: 8-20 July 1994 – dialog file 15 id 00891925) discloses wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity and economic activity with the customer for determining entitlement of ownership of stocks in the company [see all 4 page - particularly page 2] to allow customer to exchange their incentive points for entitlement of ownership of stocks in company. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Fernandez and include economic activity with the customer for determining entitlement of ownership of stocks in the company, as disclosed by Raphael, to encourage valuable customers to shop and deal with a company which allows them to exchange their incentives points to a long term ownership of the company's stock and

the company will benefit from customer's loyalty where a valuable customer may spent an average of \$5000 a year.

Further, It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosures of Fernandez and Raphael to include shopping online using credit card to provide further incentive to customers to shop online using companies web-site from their homes using computer and earn more points/stocks.

Seto discloses a transactional relay component [Figure 14 # 1 (storage system), col. 1 lines 62-62 (storing); col. 2 lines 3-5 (storage means identified by identification)], communicatively coupled to the transactional component, that facilitates a response to a server system (centralized management system inherits server) regarding the transaction (patient data history), the response including the identifier for the server system to locate additional information on the customer and to associate the activity with the customer (patient or client) [Abstract, figures 3 (computer network connectivity), 4 (hospital or location ID), 6 (system ID), 14 (information storage system, computer, centralized management system) and associated descriptions].

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Fernandez and Raphael and include a database management system for customers economic activities, and a transactional relay component, communicatively coupled to the transactional component, that facilitates a response to a server system regarding the transaction, the response including the identifier for the server system to locate additional information on the

customer and to associate the activity with the customer, as disclosed by Seto, to provide a database system for manages and stores customer's information (such as: accounts, rebate information, etc), where the system allow updating, retrieving, storing (saving) customer's information locally or remotely. Further, allow customers to monitor their incentive points accumulated and balance of shares holding online using company's browser and web-server and time they want.

Re. Claims 3, 5-12, 48-49 are rejected with same rational as claims 1-2 and 4, where all devices and communication networks claimed are prior art and widely used.

Claims 13-16, 19-27, 30-39, 41-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieboer in view of Raphael and Martin et al, 1991, "Basic financial Management", 5th Edition, Prentice Hall Inc., ISBN 0-13-060807-6 (hereinafter Martin), or

alternatively being unpatentable over Nieboer in view of Charles A. Jaffe "Shop 'n' save – or save 'n' shop?"; Seattle Times, Seattle, Wash, Feb 21, 2000. pg. C2" and Martin.

Re. Claim 13, Nieboer discloses a transactional reception component that receives information on an economic transaction relating to an individual [Figure 1 # 1; C4 L5-L10], a transactional processing component, communicatively coupled to the

transactional reception component, that determines in what form the individual participates in ownership of the company according to the economic activity (see user of the system – “market makers” which can have ownership of stocks) [C1 L5-L141; C1 L32-L65; C2 L40-L44; C22 L47-L50], and the risk associated with the first form of ownership being limited to a predetermined amount, the predetermined amount being less than an initial investment of the individual in the first form of ownership [C3 L15-L21; C11 L1-L60; C19 L64-L67], and a data storage medium (inherent in computer), communicatively coupled to the transactional processing component, that stores information on ownership rights in the company relating to the individual (database) [C8 L18 – intended use] and level of economic activity (conditional offer and number of items ... relevant activity) [C3 L48-L67; also C1 L5-L41; C2 L18-L22; col. 2 line 55 to col. 3 line 21; C15 L50 to C16 L67]. Nieboer does not explicitly disclose wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity, and the transactional processing component determining that the individual is entitled to convert a first form of ownership in the company to a second form of ownership.

However, stock owners (individuals, entity, market-makers, etc) and different types of stock ownership or company ownership are well-known (employee stock option/ownership, common stocks, for example, etc.) and the level of ownership depends how much they own (number of shares). Stocks owners (individuals, entity, etc) dividend per share are same (common stocks) for all types of owners whether

he/she has one share or 10^6 shares. Similarly, converting stocks, securities trading (stocks, bonds, fund), cost, commission, fees are well-known.

Raphel discloses wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity [see all 4 page - particularly page 2]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Nieboer and include wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity, as disclosed by Raphel, to encourage customers to trade with a particular company where they can accumulate more rebates and incentives at one entity as a valuable customer (in oppose to divided between many entities) which allows them to exchange their incentives points/rebates to a long term ownership of the company's stock.

Alternatively, Jaffe discloses wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Nieboer and include wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity, as disclosed by Jaffe to provide a website for customer for buying stuff and getting rebates for his/her loyalty in form of stock ownership.

Martin disclose the transactional processing component determining that the individual is entitled to convert a first form of ownership in the company to a second form of ownership (preferred stock or first type ownership and common stock or second type ownership) [see chapter 20 of Martin pages 743-757, specially pages 1 and 747] to allow the individual to convert his/her income type security such as preferred stocks (stable income) to different type of security such as common stocks and benefit from rise in the price of common stock. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Nieboer and Raphel or Nieboer and Jaffe and include determining that the individual is entitled to convert a first form of ownership in the company to a second form of ownership as disclosed by Martin, to allow the individual to convert his/her income type security such as preferred stocks (stable income) to different type of security such as common stocks and benefit from rise in the price of common stock.

Re. Claims 14-16 and 19, Nieboer, Raphel, Jaffe or Martin explicitly discloses wherein the transactional reception component is an interface to an interconnected network, wherein the transactional reception component is a mass storage device reader, and wherein the transactional reception component is a keyboard, and wherein the data storage medium is a semiconductor memory. However these are inherent in client/server system (e.g. online trading systems).

Re. Claims 20-21, Martin further discloses wherein the first form of ownership is a preferred stock, and wherein the second form of ownership is a common stock [Martin - pages 743-757, especially pages 1 and 747]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosures of Nieboer, Raphael/Jaffe and Martin to allow the individual to convert his/her income type security such as preferred stocks (stable income) to different type of security such as common stocks and benefit from rise in the price of common stock.

Re. Claims 22-23, Nieboer *does not explicitly disclose* wherein the predetermined amount is zero, and wherein the predetermined amount is less than 20 percent of the initial investment. However these are business choices depending company's business philosophy, financial structure, incentive structure, etc.

Re. Claims 24-27, claims 24-27 are rejected with same rational as claims 13-16.

Re. Claim 30, claim 30 is rejected with same rational as claim 19.

Re. Claims 31 and 32, claims 31-32 are rejected with same rational as claims 20-21.

Re. Claims 33, 38-39 Nieboer discloses monitoring economic activity associated with the individual [see entire document of Nieboer particularly; Abstract; Figures 1-3, 16; C1 L5-L41; C2 L18-L22; C15 L50 to C16 L67];

and limiting the risk associated with the first type of ownership to an amount less than the investment [C3 L15-L21; C11 L1-L60; C19 L64-L67], and wherein the predefined criteria (constraints) is a level of economic activity [col. 2 line 55 to col. 5 line

10]. Nieboer does not explicitly disclose - wherein the economic transaction comprises an acquisition of goods or services from the company, one or more economic transactions representing economic activity, and economic activity with the customer for determining entitlement of ownership of stocks in the company, and offering an individual an opportunity to convert the individual's first type of ownership in the entity to the second type of ownership interest based upon predefined criteria, wherein the first ownership interest is preferred stock, and wherein the second ownership interest is common stock.

However, Raphel discloses wherein the economic transaction comprises an acquisition of goods or services from the company, one or more economic transactions representing economic activity, and economic activity with the customer for determining entitlement of ownership of stocks in the company, and offering an individual an opportunity to convert the individual's first type of ownership in the entity to the second type of ownership interest based upon predefined criteria (three full books for shares in company stock) [see all 4 page - particularly page 2] to allow customer to exchange their incentive points for entitlement of ownership of stocks in company. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Nieboer and include the above features ("wherein the economic transaction ... predefined criteria") as disclosed by Raphel, to encourage customers to shop and deal with a company which allows its valuable customer to exchange their incentives points for entitlement of ownership of the company's stock.

Martin discloses wherein the first ownership interest is preferred stock, and wherein the second ownership interest is common stock. (preferred stock or first type ownership and common stock or second type ownership) [see chapter 20 of Martin pages 743-757, specially pages 1 and 747] to allow the individual to convert his/her income type security such as preferred stocks (stable income) to different type of security such as common stocks and benefit from rise in the price of common stock. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure Nieboer and Raphel and include wherein the first ownership interest is preferred stock, and wherein the second ownership interest is common stock, as disclosed by Martin, to allow the individual to convert his/her income type security such as preferred stocks (stable income) to different type of security such as common stocks and benefit from rise in the price of common stock.

Re. Claims 34-37, Nieboer discloses the step of monitoring taking place through an interconnected network [C1 L5-L13; C1 L32-L33; C2 L42] and wherein the economic activity is effectuated by a network appliance (terminal) [C22 L47-L50]. Nieboer does not explicitly disclose monitoring occurring over a web browser, and wherein the economic activity is effectuated by a wireless device. However, web browsers and wireless communication systems are well known, and it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosures of Nieboer, Raphel and Martin to include wireless communication system

and web browser to use the capability of these new common mode of communication which provides the user more flexibility to trade remotely.

Re. Claim 41, Martin further discloses wherein the first ownership interest has an expiration time [Page 745] to allow the owner to convert the security before number of years have passed. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Nieboer and Raphael and include an expiration time for the first ownership interest to allow the owner to change the security per specified time stated in original issue.

Re. Claims 42-47, Nieboer discloses the step of limiting the risk comprising investing a portion a proceeds from the investment into a fixed income investment (bond) [C1 L5-L13; C15 L50 to C18 L50], the step of limiting the risk comprising investing a portion a proceeds from the investment into a bond (treasury to bonds) [C1 L5-L13; C15 L50 to C18 L50], the step of limiting the risk comprising investing a portion of the amount of investment with a guarantor (option trader) [C1 L5-L13; C15 L50 to C18 L50]. Nieboer, Raphael or Martin explicitly discloses the step of limiting the risk comprising securing a financial guarantee from a third party, wherein the amount less than the investment is zero, and wherein the amount less than the investment is less than 20% of the investment amount. However these are well-known features to one skilled in the art of trading. It would have been obvious at the time the invention was made to a person

having ordinary skill in the art to modify the disclosures of Nieboer, Raphel and Martin and specify the risk level, which is acceptable to investor (trader) in case of losses.

***Response to argument***

2. Applicant's arguments filed 12/10/2008 have been fully considered but they are not persuasive.

In response to applicant's argument that Fernandez-Holmann fails to disclose, teach, or suggest "a transactional component that facilitates an economic transaction, wherein the economic transaction comprises a purchasing or ordering of goods or services from the company." First it should be pointed out that the rejection of claim is under 35 USC 103(a) which is bases for obviousness rejection. Second, secondary reference Raphel discloses the indented use (see MPEP for intended use/optional phrases) of the limitation "wherein the economic transaction comprises a purchasing or ordering of goods or services from the company, one or more economic transactions representing economic activity and economic activity with the customer for determining entitlement of ownership of stocks in the company [see all 4 page - particularly page 2]." In response to "In fact, Fernandez-Holmann teaches away ..." Fernandez-Holmann does not exclude facilitates an economic transaction from the company either.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, provide a database system for manages and stores customer's information (such as: accounts, rebate information, etc), where the system allow updating, retrieving, storing (saving) customer's information locally or remotely. Further, allow customers to monitor their incentive points accumulated and balance of shares holding online using company's browser and web-server and time they want. ( for example - claim 1) or to allow the individual to convert his/her income type security such as preferred stocks (stable income) to different type of security such as common stocks and benefit from rise in the price of common stock (claim 13).

In response to applicant's argument that "it is improper for an Examiner to use hindsight having ..." See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Further, applicant has pointed out reference to KSR, Examiner pointes out the following passages from KSR "To determine whether there was an apparent reason to combine the known elements in the way a patent claims, it will often be necessary to look to interrelated teachings of multiple patents; to the effects of demands known to the design community or present in the marketplace; and to the background knowledge possessed by a person having ordinary skill in the art." This is not an hindsight to Examiner,

because, beside reading prior arts every day, the Examiner at minimum points out to all of the prior art reference that have been provided to Applicant during the prosecution (which applicant have to consider), which leads the Examiner to conclude that is an obvious combination of converting incentive points earn during purchase from one type of incentive to another type of incentives such as; exchange of credit awards to into purchase of mutual funds, see Kalina (US 5,970,480) or Fernandez-Holmann which is analogous to exchange of points/rebates to stocks or other type of securities. Applicant should consider all provided prior art references (patents and Non-Patents) and analogous art with respect to this remark. Further, rebates/coupons/incentives are well-known, whether the rebate/incentives are in the form of airlines tickets, cash for opening an account in bank are not patentable distinguished from giving a share of stock. In every case it is obvious, not an hindsight that the customer profits from using the product offered by these companies/entities as well-as the entity giving the incentive/coupon/cash or airline ticket.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Abdi Kambiz can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harish T Dass

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Primary Examiner  
Art Unit 3692

/Harish T Dass/  
Primary Examiner, Art Unit 3692